



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2019-0562; FRL-10006-12-Region 3]

#### **Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) Under the 2008 Ozone National Ambient Air Quality Standards (NAAQS)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve two state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions address certain reasonably available control technology (RACT) requirements, including those related to Control Technique Guidelines (CTGs) for volatile organic compounds (VOC) and the addition of regulations controlling VOC emissions from industrial cleaning solvents. These submissions are part of Pennsylvania's efforts to implement RACT for the 2008 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2019-0562 at <https://www.regulations.gov>, or via email to [spielberger.susan@epa.gov](mailto:spielberger.susan@epa.gov). For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of

submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **For Further Information Contact** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** David Talley, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2117. Mr. Talley can also be reached via electronic mail at [talley.david@epa.gov](mailto:talley.david@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 13, 2018, the Pennsylvania Department of Environmental Protection (PADEP) submitted to EPA two SIP revisions which were intended to satisfy some of the RACT requirements for sources of VOC emissions required by sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA and the implementing regulations for the 2008 ozone NAAQS (80 FR 12264, March 6, 2015; 40 CFR part 51, subpart AA). In addition, the submittals were intended to address certain parts of EPA's "Findings of Failure to Submit State Implementation Plan Submittals for the 2008 Ozone National Ambient Air Quality Standards," (82 FR 9158; February 3, 2017). Additionally, these two submittals are related to another

Pennsylvania SIP submission addressing RACT for major stationary sources of VOC and oxides of nitrogen (NO<sub>x</sub>) that was conditionally approved by EPA on May 9, 2019. See section I.C. of this notice.

## **I. Background**

### *A. Ozone NAAQS and RACT Requirements*

On July 18, 1997 (62 FR 38856), EPA promulgated a revised standard for ground level ozone based on 8-hour average concentrations. The 8-hour averaging period replaced the previous 1-hour averaging period adopted in 1979, and the level of the NAAQS was changed from 0.12 parts per million (ppm) to 0.08 ppm. On April 30, 2004, EPA designated two moderate nonattainment areas in Pennsylvania under the 1997 8-hour ozone NAAQS, namely Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE (the Philadelphia Area) and Pittsburgh-Beaver Valley (the Pittsburgh Area). The other 14 nonattainment areas in Pennsylvania were designated marginal nonattainment. See 69 FR 23858 and 23931; see also 40 CFR 81.339. On March 27, 2008, EPA strengthened the 8-hour ozone standards by revising its level to 0.075 ppm averaged over an 8-hour period (2008 8-hour ozone NAAQS). 73 FR 16436. On May 21, 2012, EPA designated five marginal nonattainment areas in Pennsylvania for the 2008 8-hour ozone NAAQS: Allentown-Bethlehem-Easton, Lancaster, Reading, the Philadelphia Area, and the Pittsburgh Area. See 77 FR 30088.

In a March 6, 2015 rulemaking entitled “Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements” (2008 Ozone Implementation Rule (80 FR 12264)), EPA announced its revocation of the 1997 8-hour ozone NAAQS for all purposes and for all areas in the country, effective on April 6, 2015. However, EPA determined that certain nonattainment planning requirements continue to be in effect as

anti-backsliding measures for the revoked 1997 8-hour ozone NAAQS for areas designated nonattainment under the 1997 8-hour ozone NAAQS, including RACT. See 80 FR 12264, 12296.

The CAA regulates emissions of NO<sub>x</sub> and VOC to prevent photochemical reactions that result in ozone formation. RACT is an important strategy for reducing NO<sub>x</sub> and VOC emissions from stationary sources within areas not meeting the ozone NAAQS. Since the 1970's, EPA has consistently defined "RACT" as the lowest emission limit that a particular source is capable of meeting by the application of the control technology that is reasonably available considering technological and economic feasibility. See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, "Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas," and 44 FR 53762 (September 17, 1979).

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must provide for implementation of all reasonably available control measures (RACM) as expeditiously as possible, including emissions reductions from existing sources through adoption of RACT. Further, section 182(b)(2) of the CAA requires states with ozone nonattainment areas classified as moderate or higher to submit a SIP revision requiring implementation of RACT for three specific categories of sources. First, section 182(b)(2)(A) requires RACT for each category of VOC sources in the nonattainment area covered by a CTG document issued by EPA between November 15, 1990 and the date of attainment. These CTG-related SIP revisions shall be submitted within the period set forth by EPA in issuing the relevant CTG document. Second, section 182(b)(2)(B) requires RACT for all VOC sources in the area covered by any CTG issued before November 15, 1990. Third, section 182(b)(2)(C) requires RACT for all other major

stationary sources of VOC located in the nonattainment area. In addition, section 182(f) subjects major stationary sources of NO<sub>x</sub> to the same RACT requirements applicable to major stationary sources of VOC. EPA has not issued any CTGs for categories of NO<sub>x</sub> sources, so the effect of section 182(f) is to require that SIPs also require RACT for major stationary sources of NO<sub>x</sub> in accordance with section 182(b)(2)(C). The ozone RACT requirements under section 182(b)(2) are usually referred to as VOC CTG RACT, non-CTG VOC RACT, and major NO<sub>x</sub> RACT.

A “major source” is defined based on the source’s potential to emit (PTE) NO<sub>x</sub> or VOC, and the applicable ton per year emission thresholds defining a “major” source differ based on the classification of the nonattainment area in which the source is located. See sections 182(c)–(f) and 302 of the CAA. In addition, section 184(a) of the CAA established an Ozone Transport Region (OTR) comprised of 12 eastern states, including all of Pennsylvania. Pursuant to section 184(b), the RACT requirements of section 182(b)(2) which would be applicable if an area were classified as a moderate nonattainment area apply to all areas within the OTR. This requirement is referred to as OTR RACT.

EPA’s CTGs establish presumptive RACT level control requirements for various VOC source categories; that is, they identify a level of control which EPA recommends as RACT for the affected source category. In some cases, EPA has issued Alternative Control Techniques guidelines (ACTs) for source categories, which in contrast to the CTGs, only present a range for possible control options but do not identify any particular option as the presumptive norm for what is RACT. EPA has elaborated upon the RACT requirements through implementation rules for each ozone NAAQS (40 CFR part 51, subparts X and AA), as well as in guidance. See also the preamble to the 2008 Ozone Implementation Rule, 80 FR 12264, 12278 (March 6, 2015).

In the 2008 Ozone Implementation Rule, EPA finalized an approach that allowed states, in some

cases, to certify that sources addressed by prior RACT determinations for the 1-hour (1979) and/or 1997 ozone standard do not need to implement additional controls to meet the 2008 RACT requirements. EPA's rationale was that a new RACT determination for some already controlled sources would either lead to the same or similar control technology, or that any incremental reductions from an additional round of RACT would be so small as to render the cost of achieving such reductions unreasonable. See 80 FR 12264, 12279. RACT SIPs, therefore, must contain adopted RACT regulations, a certification that some or all existing RACT provisions are still RACT, and/or negative declarations that there are no affected sources in the nonattainment area to which certain CTGs would apply. *Id.* at 12278. EPA directed that as part of their RACT SIP submissions, states should provide adequate documentation that they have considered control technology that is economically and technically feasible, and that input arising from public comment periods should be considered as well. *Id.* States were required to submit RACT SIP revisions within 24 months of the July 20, 2012 effective date of designation<sup>1</sup> for moderate nonattainment areas. *Id.* at 12266.

#### *B. Ozone RACT Applicability in Pennsylvania*

As described previously, because all of Pennsylvania is in the OTR, RACT in Pennsylvania under each ozone NAAQS applies to all major stationary sources of NO<sub>x</sub> and VOC, and must be evaluated and satisfied separately for each ozone NAAQS. At the time of revocation of the 1997 8-hour ozone NAAQS (effective April 6, 2015), only two moderate nonattainment areas remained in the Commonwealth of Pennsylvania for the 1997 standard: the Philadelphia and the Pittsburgh Areas. As required under EPA's anti-backsliding provisions,

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<sup>1</sup> i.e., by July 20, 2014.

these two moderate nonattainment areas continue to be subject to RACT under the 1997 8-hour ozone NAAQS.

RACT applies to major stationary sources of NO<sub>x</sub> and VOC under each ozone NAAQS and to any VOC sources subject to CTG RACT. The definition of a “major source” of NO<sub>x</sub> or VOC differs depending the nonattainment classification of the area in which the source is located. Sources located in ozone nonattainment areas are subject to the “major source” definitions established under the CAA. See CAA sections 182(c) – (e) and section 302(j).

In addition, because all of Pennsylvania is part of the OTR established by section 184 of the CAA, marginal ozone nonattainment areas and ozone attainment areas in Pennsylvania are treated as moderate nonattainment areas under the 1997 8-hour ozone NAAQS for any planning requirements under the revoked standard, including RACT. The OTR RACT requirements applicable to moderate nonattainment areas are also in effect under the 2008 8-hour ozone NAAQS throughout Pennsylvania even though there are no nonattainment areas designated above the marginal classification for the 2008 ozone NAAQS. Thus, in effect, the same RACT requirements for moderate nonattainment areas continue to be applicable statewide in Pennsylvania under both the 1997 and 2008 8-hour ozone NAAQS.<sup>2</sup>

In Pennsylvania, the SIP program is implemented primarily by PADEP, but also by local air agencies in Philadelphia County (the City of Philadelphia Air Management Services (AMS)) and Allegheny County, (Allegheny County Health Department (ACHD)). These agencies have implemented numerous RACT regulations and source-specific measures in Pennsylvania to meet the applicable ozone RACT requirements. Statewide RACT controls have been promulgated by PADEP in Pennsylvania Code Title 25-Environmental Resources, Part I- Department of

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<sup>2</sup> See implementing regulations for the 1997 and 2008 ozone NAAQS, at 40 CFR part 51, subparts X and AA, respectively.

Environmental Protection, Subpart C- Protection of Natural Resources, Article III- Air Resources, (25 Pa. Code) Chapter 129. AMS and ACHD incorporate by reference some Pennsylvania regulations, but have also promulgated a number of regulations adopting RACT controls within their own jurisdictions. In addition, AMS and ACHD have submitted separate source-specific RACT determinations as SIP revisions, which have been approved by EPA. See 40 CFR 52.2020(d)(1).

States were required to make RACT SIP submissions for the 1997 8-hour ozone NAAQS by September 15, 2006. PADEP submitted a SIP revision on September 25, 2006, addressing certain requirements of RACT under the 1997 ozone NAAQS. On June 27, 2016, PADEP withdrew certain portions of this SIP prior to EPA approval, related to RACT for major stationary sources of VOC and NO<sub>x</sub>. 82 FR 31464 (July 7, 2017). The remaining portions of this SIP covered CTG source categories for which Pennsylvania had adopted regulations, as well as negative declarations for CTG source categories with no such sources located in Pennsylvania. *Id.* at 31465. The remaining SIP also certified that three previously-adopted Pennsylvania regulations covering three non-CTG source categories continued to constitute RACT for the 1997 ozone NAAQS. *Id.* at 31466. EPA found that this 2006 RACT SIP met the requirements for RACT in CAA section 182(b) and 184(b) for the 1997 NAAQS with respect to these CTG categories, to the negative declarations, and to these three specific non-CTG VOC source categories. *Id.* at 31467. RACT control measures addressing all applicable CAA RACT requirements under the 1997 8-hour ozone NAAQS have also been implemented and fully approved in the jurisdictions of Allegheny County and Philadelphia County. See 78 FR 34584 (June 10, 2013) and 81 FR 69687 (October 7, 2016).



### *C. RACT II*

On May 9, 2019, EPA took final action on a Pennsylvania SIP submittal to satisfy certain CAA RACT requirements under both the 1997 and 2008 8-hour ozone NAAQS for specific source categories. 84 FR 20274. EPA fully approved amendments to 25 Pa. Code section 121.1 and new provisions identified as 25 Pa. Code sections 129.96, 129.97, and 129.100 as meeting certain aspects of major stationary source RACT in CAA sections 172, 182, and 184 for the 1997 and 2008 ozone NAAQS. *Id.* at 20290. EPA conditionally approved 25 Pa. Code sections 129.98 and 129.99 based on PADEP's commitment to submit additional SIP revisions to address the deficiencies identified by EPA in the May 16, 2016 SIP revision. *Id.* Upon submission of all elements intended to meet the conditions identified in Section IV of that rulemaking action, Pennsylvania must submit a SIP revision certifying that it has met all conditions. If EPA determines that Pennsylvania has satisfied these conditions, EPA will remove the conditional nature of the approval and Pennsylvania's 1997 and 2008 8-hour ozone RACT SIP revision will, at that time, receive a full approval status. If Pennsylvania fails to meet the conditions specified in the final conditional approval action, the conditional approval of 25 Pa. Code sections 129.98 and 129.99 shall be treated as a disapproval.

### **II. Summary of SIP Revisions and EPA Analysis**

In the preamble of EPA's final rulemaking for the 2008 ozone NAAQS implementation plan, EPA indicated that RACT SIPs must contain adopted RACT regulations, certifications where appropriate that existing provisions are RACT, and/or negative declarations that there are no sources in the nonattainment area covered by a specific CTG source category. 80 FR 12264, 12278, March 6, 2015.

PADEP's August 13, 2018 SIP submissions are intended to meet the RACT requirements for

VOC under sections 172(c)(1), 182(b)(2) and 184(b)(1)(B) of the CAA and the implementing regulations for the 2008 ozone NAAQS. 40 CFR part 51, subpart XX. These submittals are discussed in detail in sections II.A. and II.B of this preamble. Additional information can be found in EPA's Technical Support Document (TSD) in the docket for this action.

*A. Pennsylvania's RACT Certification of CTGs and Request to Incorporate New Source Performance Standards into the SIP.*

The first submittal is entitled: "Certification of Reasonably Available Control Technology for Control Techniques Guidelines Under the 2008 Ozone National Ambient Air Quality Standards and Incorporation of 25 Pa Code Chapter 122 (Relating to National Standards of Performance for New Stationary Sources) into the Commonwealth's State Implementation Plan." This submittal: 1) Certifies that PADEP's adoption and implementation of regulations to control VOC emissions is consistent with EPA's CTGs and therefore represents RACT for these covered CTG sources for the 2008 ozone standard; 2) Incorporates 25 Pa. Code Chapter 122 (relating to national standards of performance for new stationary sources) into the Pennsylvania SIP and certifies that those provisions continue to represent RACT for facilities subject to such standards of performance; and 3) Incorporates specific permit conditions from certain facilities for the purpose of establishing source-specific RACT-level controls for those facilities.

*1. CTGs*

PADEP developed regulations consistent with each CTG addressed by the submittal and has determined that each continues to represent RACT for the 2008 ozone NAAQS. A list of the CTGs adopted by Pennsylvania that PADEP considered in making this determination is found in Table 1 beginning on page 12 of this submittal. PADEP based this certification on the following: 1) Certification that Pennsylvania's regulations meet the CAA RACT requirements,

are based on the most currently available technically and economically feasible controls, and represent RACT for implementation purposes pertaining to the 2008 8-hour ozone NAAQS; 2) Certification that PADEP has adopted and implemented SIP approved provisions or regulations addressing applicable EPA CTG source categories and that these provisions or regulations represent RACT control levels or control levels more stringent than RACT under the 2008 ozone NAAQS; 3) Certification that PADEP has implemented all CTG RACT controls indicated in this SIP revision, based on the EPA's guidance and standards, and that they represent current RACT control levels under the 2008 8-hour ozone NAAQS; and 4) Certification that PADEP has determined that there is a CTG source category for which it has made a negative declaration because there are no existing sources for RACT purposes in Pennsylvania.

PADEP has determined that there are no sources in Pennsylvania (excluding Philadelphia County and Allegheny County) covered by EPA's CTG "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners," (EPA-450/3-82-009; September 1982) and therefore submitted a negative declaration for that CTG source type.

## *2. Incorporation by Reference of New Source Performance Standards (NSPS)*

Pennsylvania has incorporated by reference and therefore adopted all of the New Source Performance Standards (NSPS) promulgated by EPA under section 111 of the CAA and found at 40 CFR part 60. 25 Pa. Code 122. PADEP determined that for certain source categories, the Federal requirements of 40 CFR part 60 – Standards of Performance for New Stationary Sources, provide RACT level control. PADEP has submitted 25 Pa. Code 122 for inclusion into the SIP, consistent with CAA section 182(b)(2). PADEP's August 13, 2018 submittal specifically cites the requirements of 40 CFR part 60, subparts NNN (relating to synthetic organic chemical manufacturing industry ("SOCMI") distillation operations), RRR (relating to SOCMI reactor

processes), and subparts KKK, OOOO, and OOOOa (relating to natural gas processing facilities), and certifies that the requirements of these NSPS constitute VOC RACT under the 2008 ozone NAAQS for the affected source categories.

EPA's CTG entitled "Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processes in the Synthetic Organic Chemical Manufacturing Industry, EPA-450/4/-91-031, August 1993" provides that the NSPS requirements of subparts NNN and RRR meet the RACT level controls recommended by the CTG. The required control efficiency of the CTG (98% destruction by weight, or 20 parts per million by volume (ppmv) dry basis, corrected to 3% oxygen) is the same as required by the NSPS.<sup>3</sup> Essentially, any process vent that is controlled with a combustion device to meet the requirements of the NSPS would meet the RACT recommendations of the CTG. PADEP identified five facilities subject to subparts NNN and RRR. Four of these are subject to control requirements, while one is subject only to record keeping requirements based on a de minimis emissions exemption, consistent with the CTG.

25 Pa. Code 122 also incorporates the Federal NSPS requirements of 40 CFR part 60 subparts KKK, OOOO, OOOOa and the cross-referenced equipment leak detection and repair (LDAR) requirements of subparts VV and VVa. The NSPS requirements from subpart KKK are equivalent to the 1983 CTG for the oil and natural gas industry.<sup>4</sup> Subpart OOOO and OOOOa incorporated the requirements of subpart KKK. PADEP provided a comparison between the applicable provisions of the NSPS and EPA's 1983 CTG.<sup>5</sup> Based on this comparison, PADEP

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<sup>3</sup> See 40 CFR 60.662 and 60.702.

<sup>4</sup> See Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA-453/B-16-001, October 2016, Section 8.3.2.1, pp. 8-12, available at: <https://www.epa.gov/sites/production/files/2016-10/documents/2016-ctg-oil-and-gas.pdf>

<sup>5</sup> See Appendix F of PADEP's August 13, 2018 submittal.

has determined that the NSPS rules in 40 CFR part 60, subparts KKK, OOOO, and OOOOa, with cross references to subparts VV and VVa, are at least as stringent as the requirements in the 1983 CTG for this source category. Therefore, the Federal NSPS provisions applicable to all of Pennsylvania's current natural gas processing facility sources are sufficient to implement RACT for the 2008 ozone NAAQS and meet the requirements of the 1983 Natural Gas Processing Plants CTG. EPA notes that PADEP's August 13, 2018 submittal did not address EPA's "Control Techniques Guidelines for the Oil and Natural Gas Industry, EPA-453/B-16-001, October 2016," (2016 Oil and Gas CTG). EPA is, therefore, not proposing action on the submittal in relation to the 2016 Oil and Gas CTG.

### *3. Incorporation of Source Specific Permit Limits*

PADEP found only two sources covered by the "Shipbuilding/Repair ACT (EPA 453/R-94-032, April 1994) and the EPA's CTG for Shipbuilding and Ship Repair Operations (Surface Coating) (61 FR 44050, August 27, 1996)" and one source subject to "Control of Volatile Organic Compound Emissions from Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry, EPA-450/3-84-015, December 1984." Rather than promulgate a rule to address the RACT requirements of those two CTGs for only three affected sources, PADEP has incorporated the requirements of the CTGs into Federally enforceable permits and submitted the applicable permit limits for incorporation into the SIP.

Redacted versions of Permit Nos. 25-00930 (Donjon Shipbuilding) and 26-00545 (Heartland Fabrication) were submitted for incorporation into the Commonwealth's SIP. Generally, the control strategy is to limit the VOC content of the coatings and materials used. The relevant portions of the permits are consistent with the Shipbuilding and Ship Repair Operations (Surface coating) CTG and satisfy the RACT requirements for these sources.

A redacted version of Permit No. 39-00024 (Geo. Specialty Chem. Trimet Div.) was also submitted for incorporation into the SIP. PADEP certified that this is the only source to which the SOCM I Air Oxidation Process CTG applies. Pursuant to the CTG, “It is recommended that air oxidation facilities for which an existing combustion device is employed to control process VOC emissions should not be required to meet the 98 percent emissions limit until the combustion device is replaced for other reasons. In other words, no facility would be required to upgrade or replace an existing control device.”<sup>6</sup> PADEP determined that the facility’s formaldehyde process and catalytic incinerator were installed in 1980, before the December 1984 applicability date of the CTG. PADEP further determined that neither the process nor the control device have been modified since the 1980 installation date. PADEP therefore certified that the existing control strategy and emission limitations in the permit constitute RACT for this particular source.

*B. Regulatory Revisions Related to VOC and NO<sub>x</sub> RACT*

The changes proposed by PADEP in this second submittal, entitled “Control of Volatile Organic Compound Emissions from Industrial Cleaning Solvents; General Provisions; Aerospace Manufacturing and Rework; Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs,” include: 1) The addition of 25 Pa. Code 129.63a (relating to the control of VOC from industrial cleaning solvents (ICS));

2) Amendments to sections 121.1 and 129.51 (definitions and “general” provisions, respectively) in order to support the addition and implementation of section 129.63a; 3) A correction to the VOC emission limit table in section 129.73 (relating to aerospace manufacturing and re-work);

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<sup>6</sup> See “Control of Volatile Organic Compound Emissions from Air Oxidation Processes in the Synthetic Organic Chemical Manufacturing Industry, EPA, 450/3-84-015, December 1984,” Page 4-1, available at: [https://www3.epa.gov/airquality/ctg\\_act/198412\\_voc\\_epa450\\_3-84-015\\_air\\_oxidation\\_processes.pdf](https://www3.epa.gov/airquality/ctg_act/198412_voc_epa450_3-84-015_air_oxidation_processes.pdf)

and 4) Amendments to sections 129.96, 129.97, 129.99, and 129.100 to clarify certain requirements and to update the list of exemptions under RACT II because of previously adopted presumptive VOC RACT regulations.

PADEP determined that the recommendations in EPA's 2006 ICS CTG are technically and economically feasible for sources in this source category, and developed section 129.63a for the purpose of implementing VOC RACT for affected sources in Pennsylvania. PADEP adopted the relevant limits of the CTG in section 129.63a. Pursuant to section 129.63a(a), the regulation applies to owners/operators of facilities in which industrial cleaning solvents are "used or applied in a cleaning activity at a cleaning unit operation, a work production-related work area, or a part, product, tool, machinery, equipment, vessel, floor or wall." Facilities are subject to section 129.63a if the combined actual emissions of VOC from all subject cleaning operations exceed 2.7 tons in any 12-month rolling period, before consideration of controls. Consistent with EPA's CTG, section 129.63a requires one of the following emissions controls: Solvents with a VOC content of less than or equal to 0.42 pounds of VOC per gallon (lb/VOC/gal) (or 50 grams of VOC per liter (50 g/L)), work practice standards (the use of closed vessels/containers, minimization of air circulation around cleaning unit operations), or add on capture/control systems with a minimum efficiency of 85% reduction.

Section 129.63a(c) exempts certain otherwise applicable sources from the rule, including: Sources subject to section 129.63 (relating to degreasing operations) or 40 CFR part 63, subpart T (relating to national emission standards for halogenated solvent cleaning); sources where the use or application of the industrial cleaning solvent is subject to a standard or specification required by the United States Department of Defense, Federal Aviation Administration or other Federal government entity; and a number of specific processes, generally consistent with the

exemptions recommended by the CTG.

In section 129.73, Table II (relating to allowable content of VOC in aerospace coatings) was revised to correct a numbering error. The coating type “High-Temperature Coating” was numbered incorrectly as (20)(a) and was renumbered as (21). The succeeding coating types were renumbered accordingly. The title of Table II was amended to delete the redundant phrase “allowable VOC content.”

As previously discussed, EPA recently approved sections 129.96, 129.97, and 129.100, and conditionally approved sections 129.98 and 129.99 as part of the May 9, 2019 final rulemaking action related to Pennsylvania’s RACT II regulations.<sup>7</sup> The RACT II Rule applies statewide to existing major NO<sub>x</sub> and/or VOC sources in Pennsylvania, except those subject to other Pennsylvania regulations, as specified in 25 Pa. Code 129.96(a)–(b). PADEP’s August 13, 2018 submittal amends section 129.96(a) and (b) (relating to applicability) to revise the list of sources exempt from RACT II because a presumptive RACT requirement or presumptive RACT emission limitation, or both, has been established elsewhere. The applicability criteria in section 129.96(a) and (b) are revised in order to add reference to sections 129.52d, 129.52e and 129.74 (relating to control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings; control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations; and control of VOC emissions from fiberglass boat manufacturing materials). Additionally, sections 129.97(k)(1)(ii) and 129.99(i)(1)(ii) (relating to presumptive RACT requirements, RACT emission limitations and petition for alternative compliance schedule; and alternative RACT proposal and petition for

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<sup>7</sup> See 84 FR 20274.



alternative compliance schedule) were amended by adding the text “or major VOC emitting facility” for clarity. Section 129.100(a) (relating to compliance demonstration and recordkeeping requirements) was amended to add “RACT” in two places for clarity. The emission limits and substantive requirements of sections 129.96, 129.97, 129.99, and 129.100 were not amended.

### **III. Proposed Action**

EPA's review of this material indicates that PADEP's submittals are adequate to meet the ozone-specific RACT requirements for VOC of CAA sections 172, 182(b)(2)(A) and (B), 182(f), and 184 of the CAA, for the 2008 8-hour ozone NAAQS and are in accordance with CAA section 110. Therefore, EPA is proposing to approve the two Pennsylvania SIP revisions relating to VOC RACT for the 2008 ozone NAAQS, which were submitted on August 13, 2018. EPA is soliciting public comments on this proposed approval. These comments will be considered before taking final action.

### **IV. Incorporation by Reference**

In this document, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the Pennsylvania rules regarding definitions and permitting requirements discussed in Section II of this preamble. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **For Further Information Contact** section of this preamble for more information).

## **V. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to RACT requirements under the 2008 ozone NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference,  
Ozone, Volatile organic compounds.

Dated: February 24, 2020.

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Cosmo Servidio,  
Regional Administrator,  
Region III.

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